

201204253

Lynn Ruger

On March 3, 2012, a man bought a loose cigarette from a bodega and went to his mother's apartment. As he approached, he was stopped by two police officers who stopped him, frisked him, and searched him. The officers found no contraband and let him in to his apartment.

The officer who conducted the search, PO Lynn Ruger, stated that she had recognized the man from arresting him years before and that she believed him to be a gang member. She provided a number of statements that would have given her reasonable suspicion to frisk him such as bulges in his clothing. She also stated that when she approached and asked to speak to him he turned his back to her and "his back was towards me, so he could have had a shotgun there." She stated that she had only frisked (patted down) the man and had not searched him by going through his pockets.

The security video from the apartment building showed that PO Ruger's entire description of the incident was false. The man was facing her from the time she arrived to the time she forcibly turned him around. The video further demonstrates that she searched him, putting her hands in the pockets of his hoodie. When shown the video of her putting her hand in the man's pocket, she denied she had done so, saying "that's possibly a t-shirt or something."

When confronted with the video, which demonstrated that all of the justifications she had given for the stop were false, PO Ruger testified that, "Like, I remember knowing that I had suspicion that he had a weapon." Beyond the fact that she had previously arrested the man and believed him to be a gang member, she did not articulate any reason for the stop that was not contradicted by the video.

The CCRB found that PO Ruger had made a false official statement about the circumstances of the stop and frisk. The NYPD did not discipline PO Ruger for any part of the incident. She was later promoted to Sergeant before leaving the NYPD in 2020.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Harrison	Team: Team # 2	CCRB Case #: 201204253	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sat, 03/31/2012 3:40 PM, Mon, 04/02/2012	Location of Incident: [REDACTED]	Precinct: 32	18 Mo. SOL 09/30/2013	EO SOL 9/30/2013	
Date/Time CV Reported Tue, 04/03/2012 2:20 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/03/2012 2:20 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Lynn Ruger	26344	§ 87(2)(b)	PBMN AC
2. SGT Christophe Siani	04029	§ 87(2)(b)	PBMN AC

Officer(s)	Allegation	Investigator Recommendation
A . POF Lynn Ruger	Abuse of Authority: PO Lynn Ruger stopped § 87(2)(b) [REDACTED].	A . § 87(2)(g) [REDACTED]
B . POF Lynn Ruger	Abuse of Authority: PO Lynn Ruger frisked § 87(2)(b) [REDACTED].	B . § 87(2)(g) [REDACTED]
C . POF Lynn Ruger	Abuse of Authority: PO Lynn Ruger searched § 87(2)(b) [REDACTED].	C . § 87(2)(g) [REDACTED]
D . POF Lynn Ruger	Abuse of Authority: PO Lynn Ruger refused to provide her name to § 87(2)(b) [REDACTED].	D . § 87(2)(g) [REDACTED]
E . SGT Christophe Siani	Abuse of Authority: Sgt. Christophe Siani refused to provide his name to § 87(2)(b) [REDACTED].	E . § 87(2)(g) [REDACTED]
F . POF Lynn Ruger	Other: PO Lynn Ruger intentionally made false official statements in violation of NYPD Patrol Guide Section 203-08.	F . § 87(2)(g) [REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On April 3, 2012, at 2:20 p.m., § 87(2)(b) the attorney of § 87(2)(b) called the CCRB to file this complaint on behalf of § 87(2)(b) (encl. 4A). § 87(2)(b) did not witness the incident. On March 31, 2012, at approximately 3:40 p.m., § 87(2)(b) had an encounter with PO Lynn Ruger and Sgt. Christopher Siani outside § 87(2)(b) in Manhattan. The following allegations resulted:

- **Allegation A – Abuse of Authority: PO Lynn Ruger stopped** § 87(2)(b)
- **Allegation B – Abuse of Authority: PO Lynn Ruger frisked** § 87(2)(b)
- **Allegation C – Abuse of Authority: PO Lynn Ruger searched** § 87(2)(b)
§ 87(2)(g)
- **Allegation D – Abuse of Authority: PO Lynn Ruger refused to provide her name to** § 87(2)(b)
§ 87(2)(g)
- **Allegation E – Abuse of Authority: Sgt. Christopher Siani refused to provide his name to** § 87(2)(b)
§ 87(2)(g)
- **Allegation F – Other Misconduct: PO Lynn Ruger intentionally made false official statements in violation of NYPD Patrol Guide Section 203-08.**
- § 87(4-b), § 87(2)(g)
- § 87(4-b), § 87(2)(g)
§ 87(2)(b), § 87(4-b), § 87(2)(g)

Results of Investigation

Civilian Statements

- Victim:** § 87(2)(b)
- § 87(2)(b)

On April 16, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 7A-E). On May 22, 2012, § 87(2)(b) filed a Notice of Claim with the City of New York regarding the incident (encl. 8A-E). On July 25, 2012, § 87(2)(b) was deposed in a 50-H hearing (encl. 9A-AD). § 87(2)(g)

On March 31, 2012, at 3:40 p.m., § 87(2)(b) bought a cigarette at a store at § 87(2)(b) in Manhattan and walked to the apartment of his mother, § 87(2)(b) at § 87(2)(b) was wearing a green hoodie and black jeans. In his pants

pockets were his ID and some money, and in his hoodie pocket was the cigarette he bought. § 87(2)(b) rang the apartment buzzer outside the apartment building, and then an unmarked, black Chevy Impala pulled up outside the location. § 87(2)(b) held his phone with one hand, and had his other hand in his hoodie pocket. § 87(2)(b) did not recall which hand held the phone and which was in the pocket.

PO Lynn Ruger (identified by investigation) exited the front passenger seat of the unmarked car and repeatedly told § 87(2)(b) “Come here.” § 87(2)(b) did not approach PO Ruger. PO Ruger told § 87(2)(b) once to take his hand out of his pocket, and § 87(2)(b) complied. § 87(2)(b) answered the intercom, and § 87(2)(b) told § 87(2)(b) via the intercom that the police were “messing” with him. PO Ruger approached § 87(2)(b) and told him to step down from the stoop. PO Ruger then grabbed § 87(2)(b) by the sleeve on his hoodie and lead him down the stoop. Sgt. Christopher Siani (identified by investigation) exited the driver seat of the unmarked car and approached PO Ruger and § 87(2)(b). PO Ruger and Sgt. Siani accused § 87(2)(b) of standing in front of the § 87(2)(b) all day dealing drugs and accused him of being involved in gangs. PO Ruger asked for § 87(2)(b) s ID, and he complied.

PO Ruger frisked § 87(2)(b) from his shoulders to his ankles, including his waistband, shoes, and socks. During his CCRB interview, § 87(2)(b) did not recall if PO Ruger put her hands in any of his pockets. Later during the same interview, § 87(2)(b) was shown the video of the incident, which shows PO Ruger pulling up his hoodie and searching underneath it. § 87(2)(b) stated that he did not see PO Ruger lift up his hoodie during the incident. In § 87(2)(b) s Notice of Claim, it is noted that § 87(2)(b) was searched during the incident, but the officer who conducted the search is not specified. In the 50-H hearing, § 87(2)(b), § 87(2)(a) Gen.Mun. § 50-H(3)

Sgt. Siani did not frisk or search § 87(2)(b) or have any other physical interaction with him. PO Ruger and Sgt. Siani did not ask § 87(2)(b) any questions prior to PO Ruger frisking him. During the frisk, § 87(2)(b) and the officers argued about why the officers had stopped him. § 87(2)(b) asked why they had stopped him, and PO Ruger and Sgt. Siani accused him of involvement in drugs and gangs. PO Ruger asked § 87(2)(b) why he was complaining and told him that he knew what he was doing. § 87(2)(b) s demeanor was polite, and at no point did he raise his voice or make any threatening or provocative gestures at any officer.

During his CCRB interview, § 87(2)(b) did not allege any use of profanity by either PO Ruger or Sgt. Siani. During his 50-H hearing, § 87(2)(b), § 87(2)(a) Gen.Mun. § 50-H(3)

After frisking § 87(2)(b) PO Ruger took § 87(2)(b) s ID to her car. Sgt. Siani stayed with § 87(2)(b) at the stoop. Sgt. Siani and § 87(2)(b) argued about whether § 87(2)(b) actually lived at the location. PO Ruger returned with § 87(2)(b) s ID, and she and § 87(2)(b) also argued about whether § 87(2)(b) lived at the location. § 87(2)(b) asked PO Ruger for her name. PO Ruger said her name was “Rivera.” § 87(2)(b) asked Sgt. Siani his name. Sgt. Siani told § 87(2)(b) that it was none of his business. PO Ruger gave § 87(2)(b) his ID back, and § 87(2)(b) buzzed him into the building. § 87(2)(b) did not recognize PO Ruger or Sgt. Siani from any incidents prior to March 31, 2012.

After § 87(2)(b) provided the above statement, he viewed a surveillance video recording of the incident which § 87(2)(b) provided the CCRB. (See Surveillance Video in this report for a summary of the recording.) § 87(2)(b) stated that he had not seen the recording prior to his CCRB interview. The video shows that two police scooters arrived at the location after § 87(2)(b) was frisked. § 87(2)(b) stated that he had no interaction with the officers in the scooters did not take any actions during the incident.

Witness: § 87(2)(b)

- § 87(2)(b)

On August 29, 2012, § 87(2)(b) provided a phone statement (encl. 10A). § 87(2)(b) was not asked to provide a verified statement because she did not witness any of the alleged acts of misconduct.

On March 31, 2012, at approximately 3:40 p.m., § 87(2)(b) was in her home at § 87(2)(b) in Manhattan when her intercom rang. § 87(2)(b) heard § 87(2)(b) state over the intercom that it was him. § 87(2)(b) pressed the button on the intercom to buzz § 87(2)(b) in. A few seconds later, the intercom rang again. § 87(2)(b) heard § 87(2)(b) over the intercom talking to someone else (she did not know how) in an argumentative tone, but she did not recall what § 87(2)(b) said. § 87(2)(b) again pressed the button on the intercom to buzz § 87(2)(b) in. § 87(2)(b) did not at any point hear anyone other than § 87(2)(b) state anything over the intercom, and did not hear any officer state his or her name or shield number over the intercom. § 87(2)(b) did not say anything to any officers over the intercom and did not recall if she said anything to § 87(2)(b) over the intercom.

§ 87(2)(b) then went to her bedroom and viewed on her television a live video feed from a security camera posted outside the front door of the apartment building. It was not possible to watch the video feed while using the building intercom because the television and the intercom were in separate rooms. On the video feed, § 87(2)(b) saw § 87(2)(b) standing at the top of the building stoop and PO Ruger and Sgt. Siani (both identified by investigation) standing on the sidewalk approximately two steps from the stoop. § 87(2)(b) did not realize that PO Ruger and Sgt. Siani were police officers and did not see them have any physical contact with § 87(2)(b). § 87(2)(b) then looked out a window in her apartment overlooking the building entrance but did not see anyone outside the building. § 87(2)(b) then entered the apartment and told § 87(2)(b) that he had been stopped and frisked by the police.

NYPD Statements:

Subject Officer: PO LYNN RUGER

- *PO Ruger, a white woman who stands 5'9" tall, weighs 164 lbs., and has blonde hair and hazel eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked on March 31, 2012, from 2:00 p.m. to 10:35 p.m., assigned to Patrol Borough Manhattan North Anti-Crime in a black Chevy Impala #§ 87(2)(b) with Sgt. Christopher Siani, in plainclothes.*

Memo Book Entries

At 3:40 p.m., § 87(2)(b) date of birth § 87(2)(b) § 87(2)(b) (encl. 11A-C).

Stop, Question and Frisk Report

A Stop, Question and Frisk report prepared by PO Ruger regarding the incident notes that § 87(2)(b) was stopped and frisked but was not searched. The pedigree information for § 87(2)(b) notes “gang member” under the heading “Other (Scars, Tattoos, Etc.)” The report notes that § 87(2)(b) was suspected of criminal possession of a weapon and lists as the circumstances leading to the stop “furtive movements” and “suspicious bulge/object: hand in waistband.” The report lists as the reasons for the frisk “inappropriate attire – possibly concealing weapon” and “furtive movements.” PO Ruger did not check the box noting “Refusal to comply with officer’s directions leading to reasonable fear for safety” in the section of the report for listing reasons for the frisk. Additional circumstances noted are “area has high incidence of reported offense of type under investigation” (encl. 12A-B).

CCRB Statement

PO Ruger was interviewed at the CCRB on May 18, 2012 (encl. 13A-E). On March 31, 2012, at 3:40 p.m., PO Ruger and Sgt. Siani were driving eastbound § 87(2)(b) in Manhattan when PO Ruger saw § 87(2)(b) walking westbound on the south side of the street. Sgt. Siani was driving, and PO Ruger was in the front passenger seat. The area in which PO Ruger encountered § 87(2)(b) had a high rate of gang-related shootings and robberies and had recently experienced a spike in shootings. PO Ruger did not recall what § 87(2)(b) was wearing and did not recall to what the note “inappropriate attire” in her Stop, Question and Frisk Report referred. PO Ruger did not recall whether § 87(2)(b)’s hands were visible when she first saw him.

PO Ruger recognized § 87(2)(b) because she had arrested him in 2008 for § 87(2)(b). At the time of the incident, PO Ruger worked as the intelligence officer for her Anti-Crime team, and part of her responsibilities consisted of sharing gang-related intelligence with other NYPD units. PO Ruger had seen § 87(2)(b) listed as a gang member in NYPD intelligence documents “days” before August 31, 2012.

§ 87(2)(b) made eye contact with PO Ruger from a distance of approximately 25 feet and then immediately made an abrupt turn onto the stoop of § 87(2)(b). PO Ruger initially described the turn as “a complete 180,” but later described it as a 90-degree. PO Ruger stated that the notes “furtive movements” in her Stop, Question, and Frisk Report referred to § 87(2)(b)’s abrupt turn away from her. § 87(2)(b) approached the building intercom and repeatedly yelled “Ma!” into the intercom.

PO Ruger told Sgt. Siani to stop the car. PO Ruger then got out of the car and told § 87(2)(b) “to hold up.” PO Ruger initially stated that she got out of her car “to stop” § 87(2)(b). PO Ruger later stated that her intention in approaching § 87(2)(b) was to talk to him. PO Ruger did not recall what she intended to talk to § 87(2)(b) about or whether there was any line of questioning she intended to pursue. PO Ruger stated that she decided to approach § 87(2)(b) because she knew that § 87(2)(b) was in a gang, because § 87(2)(b) had made an abrupt turn away from her upon making eye contact with her, and because § 87(2)(b) cursed at her. During her initial description of the incident, PO Ruger described § 87(2)(b) using profanities toward her after she approached him. PO Ruger later stated that § 87(2)(b) began yelling and cursing, stating that there were “fucking” cameras and asking her why she was “fucking” stopping him, prior to her even approaching him.

§ 87(2)(b) had his back to PO Ruger when she exited her car. PO Ruger approached § 87(2)(b) and repeatedly instructed him to turn around. § 87(2)(b) did not comply. At 14:12 in the audio recording of PO Ruger's CCRB interview, she was asked the following question and gave the following answer:

Q: What did you suspect him[§ 87(2)(b)] of?

PO Ruger: I thought that he had a weapon on him. He wouldn't show me his front.

At 17:28 in the audio recording of PO Ruger's CCRB interview, she was asked the following question and gave the following answer:

Q: Did you instruct him § 87(2)(b) to turn around?

PO Ruger: Yeah.

Q: Okay. Did he comply with that?

PO Ruger: No.

Q: How many times did you tell him to do that?

PO Ruger: I don't know. I don't know an exact number.

Q: More than once?

PO Ruger: Yes.

PO Ruger initially stated that she observed § 87(2)(b) "with his right arm, doing something, um, you know, with, with his thigh" while his back was turned to her. PO Ruger later clarified that she observed § 87(2)(b) standing with his back toward her and his right elbow was out by his side. PO Ruger suspected, based on the position of § 87(2)(b)'s arm, that he might be holding something at his waistband with his right hand. PO Ruger could not actually see § 87(2)(b)'s right hand and could not see whether he was actually holding anything with his right hand because he had his back to her. At 24:34 in the audio recording of PO Ruger's CCRB interview, she was asked the following question and gave the following answer:

Q: Did you actually see him § 87(2)(b) holding onto something with his hands?

PO Ruger: Um, I saw, when, like I said, his back was towards me, so he could have had a, a shotgun there.

PO Ruger stated that the note "suspicious bulge/object: hand in waistband" on her Stop, Question and Frisk Report referred to her observation of § 87(2)(b) standing in this position. PO Ruger stated that she noted "suspicious bulge" in the report because she suspected there was a bulge or that § 87(2)(b) was holding an object, not because she actually saw a bulge or object. PO Ruger initially stated that she observed § 87(2)(b) in this position after she had exited her car and while she was telling § 87(2)(b) to turn around. PO Ruger later stated that she observed § 87(2)(b) in this position as soon as he made his abrupt turn away from her, which would have placed PO Ruger in her car when she made the observation.

PO Ruger waited for Sgt. Siani to park the car before getting closer to § 87(2)(b). § 87(2)(b) turned around to face PO Ruger. PO Ruger did not recall whether § 87(2)(b) turned around voluntarily, or whether she or Sgt. Siani physically turned him around. § 87(2)(b)'s hands were visible once he turned around. PO Ruger did not recall where § 87(2)(b)'s hands were positioned when he turned around, including whether they were in his pockets or at his waistband. PO Ruger did not observe any suspicious bulges on § 87(2)(b) once he turned around.

PO Ruger frisked § 87(2)(b)'s waistband area because she suspected that he may have had a weapon. PO Ruger did not frisk any other parts of § 87(2)(b)'s body. PO Ruger suspected that

§ 87(2)(b) may have had a weapon because § 87(2)(b) was a gang member; because she had previously arrested him for § 87(2)(b); because § 87(2)(b) had had his back to her with his arm in a position such that his hand, which she could not see, may have been at his waistband; and because § 87(2)(b) did not comply with multiple instructions to turn around. PO Ruger did not recall if she or Sgt. Siani gave § 87(2)(b) any instructions or asked him any questions prior to his being frisked.

At 19:52 in the audio recording of PO Ruger's CCRB interview, she was asked the following questions and gave the following answers:

Q: Did you search inside of any of his § 87(2)(b) s] pockets?

PO Ruger: No.

Q: Did you ever place your hand inside of his clothing or any pockets?

PO Ruger: Nnnn—in his—I',, I don't remember what he was wearing that day. He could have had like... Definitely not in his pockets, no, and I don't remember what he was wearing. He could have had like a loose shirt that I didn't go in but, like something that you're wearing, if it was open, to get his waistband, I'm kind of like, then I'd be like in your shirt, but no, I didn't touch skin or anything like that.

Throughout the incident, § 87(2)(b) (identified by investigation) shouted over the building intercom, yelling to PO Ruger and Sgt. Siani that they were on camera and telling § 87(2)(b) to get the officers' "fucking" name and shield numbers.

PO Ruger initially stated that § 87(2)(b) asked herself and Sgt. Siani simultaneously for their names and shield numbers. PO Ruger later stated that she did not recall whether § 87(2)(b) had asked for both their names and shield numbers or for just one of these forms of identification. Sgt. Siani stated his shield number. PO Ruger then interrupted Sgt. Siani by stating to him words to the effect of, "Sarge, I got it," and then she told § 87(2)(b) her name and shield number. PO Ruger did not recall if Sgt. Siani at any point provided his name to § 87(2)(b). PO Ruger at no point identified herself as "Rivera" or by any other false name. PO Ruger also used the intercom to tell § 87(2)(b) her name and shield number over the intercom. PO Ruger did not recall if Sgt. Siani also provided his name and shield number to § 87(2)(b) over the intercom. § 87(2)(b) was then released.

After providing the above statement, PO Ruger was shown the video surveillance recording of the incident. It is seen in the video that § 87(2)(b) did not have his back to PO Ruger until she physically turned him around while frisking him. At 33:32 in the audio recording of the CCRB interview, PO Ruger was asked the following question regarding her previous statements that § 87(2)(b) had his back toward her during the incident, and she provided the following answer:

Q: Does watching this recording change your recollection?

PO Ruger: I remember his § 87(2)(b) s] back being towards me, and I remember... [PO Ruger paused for four seconds.] Like, I remember knowing that I had, I had suspicion that he had a weapon.

PO Ruger did not recall § 87(2)(b) holding anything in his left hand during the incident. PO Ruger did not recall what statements she made to § 87(2)(b) immediately upon exiting her car. Neither PO Ruger nor Sgt. Siani called the two uniformed officers seen in the video responding to the location in scooters. PO Ruger did not know who these uniformed officers were and did not have any interaction with them.

At 35:15 in the audio recording of PO Ruger's CCRB interview, PO Ruger was asked if she recognized any moment in the video as the moment during the incident when she had seen § 87(2)(b) with his hand at his waistband. Before PO Ruger could reply, her legal representative, Merrill Scannell, stated, "I know. Right over there his hand—I saw it." Ms. Scannell directed PO Ruger's attention to 3:08:32 p.m. in the video and stated to PO Ruger, "Did you see where it swings forward?" PO Ruger stated, "Yeah." [At this moment in the video, § 87(2)(b) is seen turning from the sidewalk onto the stoop of § 87(2)(b) moving his right arm across his chest area as he does so. PO Ruger and her car are not yet in view of either camera when this occurs. When he begins the turn, § 87(2)(b) is facing the direction from which PO Ruger's car would arrive seconds later.]

The video continued to play, and PO Ruger then stated, indicating 3:08:39 p.m. in the video, "And then right, you know, at that moment, his right hand." [At this moment in the video, § 87(2)(b) is on the stoop of § 87(2)(b) facing out toward the street, and PO Ruger is still in her car, which is coming to a stop two car-lengths away from § 87(2)(b) to his right. The right side of § 87(2)(b)'s body is not visible on the surveillance footage.]

PO Ruger's attention was then directed to 3:09:04 p.m. in the video, at which point PO Ruger is seen searching § 87(2)(b)'s left hoodie pocket. The portion of the video showing the search of § 87(2)(b) was replayed for PO Ruger. At 37:47 in the audio recording of PO Ruger's CCRB interview, she was asked the following questions regarding what is seen in the video, and she gave the following answers:

Q: Are you putting your hand in his § 87(2)(b)'s pocket?

PO Ruger: No. That's possibly a t-shirt or some else that he had right here. Also you can see that his boxers are pretty high, and those are his jeans. You know, that's his waistband area. That's the area that I'm checking.

Q: Reviewing this video, you do not remember putting your hand inside of any pockets?

PO Ruger: I didn't put my hand in any of his pockets. No.

Subject Officer: SGT. CHRISTOPHER SIANI

- *Sgt. Siani, a white man who stands 6'0" tall, weighs 172 lbs., and has brown hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Worked on March 31, 2012, from 1:55 p.m. to 10:44 p.m., as the Patrol Borough Manhattan North Anti-Crime supervisor in unmarked, dark blue Chevy Impala #§ 87(2)(b) with PO Ruger, in plainclothes.*

Memo Book Entries

Sgt. Siani had no memo book entries regarding the incident (encl. 15A-B).

CCRB Statement

Sgt. Siani was interviewed at the CCRB on May 24, 2012 (encl. 16A-C). § 87(2)(g)

PO Ruger brought Sgt. Siani's attention to PO Ruger when § 87(2)(b) was approximately three or four car lengths away from the officers' vehicle. Sgt. Siani did not recall what § 87(2)(b) was wearing or whether his hands were visible when he first saw him. Sgt. Siani did not recall § 87(2)(b)'s hands being in his pockets at any point in the incident. Sgt. Siani did not see any suspicious bulges on § 87(2)(b)'s person at any time during the incident.

PO Ruger stated that she recognized § 87(2)(b) from the gang intelligence she had received and said something about a gun call or a gun arrest. PO Ruger stated that it looked like § 87(2)(b) was holding something, but she did not state what it looked like he was holding or why she thought he was holding something. § 87(2)(b) noticed Sgt. Siani's car and then quickly walked approximately three car lengths forward before making an abrupt turn onto the stoop of § 87(2)(b). PO Ruger told Sgt. Siani to stop and stated that she would follow § 87(2)(b) on foot. Sgt. Siani did not recall if PO Ruger stated what actions she intended to take towards § 87(2)(b) including whether she stated that she intended to stop, frisk, or search § 87(2)(b).

While Sgt. Siani parked the car, PO Ruger approached § 87(2)(b) and told § 87(2)(b) to stop and show her his hands. Sgt. Siani did not recall the exact words PO Ruger used in giving these instructions. These were the only instructions that Sgt. Siani recalled PO Ruger giving § 87(2)(b). Sgt. Siani did not know if § 87(2)(b)'s hands were visible when PO Ruger approached him because he was focused on parking the car.

Sgt. Siani parked the car and then approached PO Ruger and § 87(2)(b). When Sgt. Siani approached PO Ruger and § 87(2)(b), PO Ruger was in the process of frisking § 87(2)(b). Sgt. Siani did not instruct PO Ruger to frisk or search any of § 87(2)(b)'s pockets. No evidence was recovered from the frisk. Sgt. Siani did not see PO Ruger search § 87(2)(b).

Throughout Sgt. Siani and PO Ruger's interaction with § 87(2)(b), § 87(2)(b) had an irate and annoyed demeanor. § 87(2)(b) shouted, asking they officers why they "fuck" they were stopping me, stating that they could not "fucking" stop him, calling for his mother and stating to her that the police were "fucking" stopping him again. Sgt. Siani did not describe § 87(2)(b) cursing at him and PO Ruger prior to PO Ruger approaching him. § 87(2)(b) did not ask Sgt. Siani or PO Ruger for their names or shield numbers at any point during the incident. Sgt. Siani and PO Ruger did not state their names and shield numbers at any point during the incident. PO Ruger did not identify herself by the name "Rivera" or by any other false name during the incident.

Surveillance Video

On April 16, 2012, § 87(2)(b) provided the CCRB a video recording of the incident taken by two surveillance cameras, CAM1 and CAM2, posted at § 87(2)(b) in Manhattan (encl. 5A-C, 25A). CAM1 is positioned inside § 87(2)(b) in the hallway leading to the front door and shows the interior hallway and vestibule leading to the front door, as well as the building stoop and an area of § 87(2)(b) directly across from the building. The view of the stoop and the street is obstructed by the frames of the building's glass front and vestibule doors. CAM2 is positioned on § 87(2)(b) to the west of the front door, facing east. The building stoop is visible directly in the center of the frame and § 87(2)(b) is visible for about six car lengths east of § 87(2)(b).

The video begins with a time signature of March 31, 2012, and that the time is 3:06:42 p.m. Because § 87(2)(b), PO Lynn Ruger, and Sgt. Christopher Siani provided the time of the incident as approximately 3:40 p.m., the investigation determined that the time code on the video surveillance is inaccurate. There is no audio in the video recordings from either CAM1 or CAM2. Because the view of CAM1 is partially obstructed, the following summary describes the events visible in the recording taken by CAM2 unless noted otherwise.

At 3:08:00 p.m., § 87(2)(b) becomes visible at the top left center of the frame walking

westbound on the north side of § 87(2)(b) in an apparently casual manner. § 87(2)(b) wears dark pants, shoes, and a hoodie. § 87(2)(b) crosses § 87(2)(b) to the south sidewalk and continues walking westbound. § 87(2)(b) walks in an unhurried fashion.

At 3:08:32 p.m., § 87(2)(b) turns to his right and ascends the three stairs of the stoop of § 87(2)(b) moving his right arm across his chest area when beginning the turn in a manner consistent with an effort to build momentum as he steps up the stairs. § 87(2)(b) does not place either hand on his waistband while turning or ascending the stoop. No officers or police vehicles are visible to either camera when § 87(2)(b) turns and walks up the stoop. § 87(2)(b) approaches the door of the building, the view of which is obstructed in both CAM1 and CAM2, for approximately one second and then turns around to face the road.

At 3:08:38 p.m., approximately two seconds after § 87(2)(b) turns around, an unmarked black car enters the frame driving eastbound on § 87(2)(b) and comes to a stop at 3:08:41 p.m., approximately three car lengths east of § 87(2)(b) remains facing out toward the street, shifting his weight from side to side, and watching the car as it stops. His left hand is visible at his side, and his right hand is not visible.

At 3:08:41 p.m., PO Ruger, who is wearing plainclothes and a jacket, exits the front passenger seat of the unmarked car, immediately points at § 87(2)(b) with her left hand, and begins to walk toward him. PO Ruger appears to make statements to PO Ruger as she approaches him. As PO Ruger approaches § 87(2)(b) the unmarked black car backs up and comes to a stop (as seen in CAM1) approximately one half car length west of § 87(2)(b)

At 3:08:47 p.m. PO Ruger points at § 87(2)(b) with her right hand while approaching him. § 87(2)(b) puts his hands up. § 87(2)(b)'s left hand is visible in the recording from CAM2, and he appears to be holding a dark, rectangular object consistent with the size and shape of a cellular phone. § 87(2)(b)'s right hand is visible in the recording from CAM1, and he does not appear to be holding anything in his right hand.

At 3:08:54 p.m., § 87(2)(b) lowers his arms for one second. His left arm is visible out to his side, and his right arm is not visible. PO Ruger takes one step up the stairs of the stoop and begins to reach toward § 87(2)(b) immediately puts both his hands up again. PO Ruger grabs § 87(2)(b)'s hoodie at his stomach and right elbow and guides him down the stoop to the sidewalk. Sgt. Siani, who is wearing plainclothes and a jacket, is seen exiting the unmarked car in CAM1 and running toward PO Ruger and she guides § 87(2)(b) down the stoop. PO Ruger puts her hands on § 87(2)(b)'s elbows and guides his arms further up, placing his hands on his head. When § 87(2)(b)'s hands are placed on his head, his pants are shown sagging several inches beneath his waistline. While PO Ruger is putting § 87(2)(b)'s hands on his head, Sgt. Siani arrives by her right side.

At 3:09:03 p.m., just as Sgt. Siani arrives at PO Ruger's left side, PO Ruger puts her right hand into the left pocket of § 87(2)(b)'s hoodie for two seconds, moving her hand up and down in the pocket twice and then turning her wrist in a circular motion. PO Ruger does not remove any objects from the pocket. During this search Sgt. Siani walks behind PO Ruger to her right side.

At 3:09:05 p.m., PO Ruger uses lifts up the bottom hem of § 87(2)(b)'s hoodie up to his stomach with her left hand and searches underneath the hoodie with her right hand for three seconds.

At 3:09:09 p.m., PO Ruger reaches toward § 87(2)(b)'s groin area with her left arm, while keeping her right arm under § 87(2)(b)'s hoodie. In CAM 1, PO Ruger's hand is visible grabbing § 87(2)(b)'s pants by his left groin. § 87(2)(b) briefly drops his hands to his sides. PO Ruger begins to guide § 87(2)(b)'s hands back up, and § 87(2)(b) voluntarily puts his hands back up. PO Ruger then grabs § 87(2)(b)'s pants in the area of his left pants pocket.

At 3:09:14 p.m., PO Ruger physically turns § 87(2)(b) around 180 degrees such that his back is toward her and he is facing § 87(2)(b). This is the only time that § 87(2)(b) who has been facing PO Ruger since her car arrived into view of the surveillance cameras, has his back to her during their interaction. PO Ruger then bends down, frisks § 87(2)(b)'s legs by his ankles, and appears to be making statements to him.

At 3:09:27 p.m., PO Ruger grabs § 87(2)(b)'s right arm with her left arm and guides him toward the stoop with a light push. PO Ruger releases § 87(2)(b) and § 87(2)(b) and the officers walk up the stoop. § 87(2)(b) then gives PO Ruger what appears to be his ID card.

At 3:09:32 p.m., PO Ruger walks away from the stoop with § 87(2)(b)'s ID toward the street, leaving the frame of CAM2. CAM1 shows PO Ruger going to her unmarked car and retrieving a pen and her memo book from the car. From 3:09:32 p.m. to 3:10:09 p.m., Sgt. Siani and § 87(2)(b) are visible in CAM2, standing at the top of the stoop. § 87(2)(b) is facing the camera and appears to make statements to Sgt. Siani. Sgt. Siani stands with his back to CAM2, and it cannot be seen whether he makes any statements to § 87(2)(b).

At 3:10:09 p.m., PO Ruger walks back into view of CAM2, approaches § 87(2)(b) and hands § 87(2)(b) his ID. PO Ruger, Sgt. Siani, and § 87(2)(b) have a conversation that lasts one minute, during which PO Ruger stands on the sidewalk and Sgt. Siani and § 87(2)(b) stand on the stoop.

At 3:10:31 p.m., a marked police scooter pulls into view on the left side of the frame of CAM2, heading eastbound on § 87(2)(b), and stops approximately three car lengths east of § 87(2)(b). At 3:10:43 p.m., a second marked police scooter arrives next to the first scooter. At 3:11:03 p.m., an unidentified, uniformed officer exits the first scooter and stands by the scooter. The officer does not approach or appear to have any interaction with PO Ruger, Sgt. Siani, and § 87(2)(b).

At 3:11:10 p.m., PO Ruger and Sgt. Siani walk away from § 87(2)(b) enter their car, and drive away. § 87(2)(b) enters § 87(2)(b).

NYPD Documents

Arrest Report Records

§ 87(2)(b), § 87(2)(a) CPL 160.50

(encl. 20A-C).

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), regarding both this incident and a separate incident that occurred on April 2, 2012 and seeking \$1,000,000 as redress. A 50-H hearing was held on July 25, 2012 (encl. 8A-E).

Civilian Criminal History

- As of August 30, 2012, Office of Court Administration records reveal the following criminal convictions for § 87(2)(b)

- § 87(2)(b)
-
-
-
-
-
-
-

Civilian CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) has been named as a victim. § 87(2)(b) has not filed any previous complaints (encl. 4A).

Subject Officer CCRB Histories

- PO Ruger has been a member of the service for seven years (encl. 3A).
 - § 87(4-b), § 87(2)(g)
 - In CCRB case 200903116, one allegation of a retaliatory arrest was substantiated. The NYPD declined to prosecute PO Ruger.
- Sgt. Siani has been a member of the service for fifteen years (encl. 3B-D).
 - In CCRB case 200717516, one allegation of a vehicle search against Sgt. Siani was substantiated and § 87(4-b), § 87(2)(g). The Police Department declined to prosecute Sgt. Siani for the vehicle search and § 87(4-b).
 - § 87(4-b), § 87(2)(g)
 - In case 201008648, one allegation of a frisk against Sgt. Siani was substantiated, § 87(4-b), § 87(2)(g). Sgt. Siani received Command Discipline B.

Conclusion

Allegations Not Pled

During his CCRB interview, § 87(2)(b) did not allege any use of profanity by either PO Ruger or Sgt. Siani. During his 50-H hearing § 87(2)(b), § 87(2)(a) Gen.Mun. § 50-H(3)

There is no audio in the video surveillance recordings of the incident. Therefore, because § 87(2)(b) did not complain to the CCRB about any use of profanity by any

officers, no allegations of discourtesy have been pled.

Identification of Subject Officers

PO Ruger and Sgt. Siani confirmed their participation in the incident. Allegations A and B have been pled against PO Ruger because she admitted to stopping and searching § 87(2)(b) without being instructed to do so.

During his CCRB interview, § 87(2)(b) initially stated that he did not recall whether PO Ruger searched him. After § 87(2)(b) viewed the video recording of the incident, which shows that PO Ruger searched his left hoodie pocket and lifted up and searched underneath § 87(2)(b)'s hoodie, he stated that he did not see PO Ruger lift up his hoodie during the incident. § 87(2)(b) complained that he was searched in his Notice of Claim and his 50-H hearing. The video of the incident shows that PO Ruger was the only officer to search § 87(2)(b). It is undisputed that Sgt. Siani did not instruct PO Ruger to search § 87(2)(b). Therefore, Allegation C has been pled against PO Ruger.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Lynn Ruger stopped § 87(2)(b)

Allegation B – Abuse of Authority: PO Lynn Ruger frisked § 87(2)(b)

It is undisputed that PO Ruger stopped and frisked § 87(2)(b). It is undisputed that PO Ruger did not question § 87(2)(b) prior to stopping or frisking him.

Sgt. Siani stated that, upon exiting her car, PO Ruger told § 87(2)(b) to stop and show his hands. § 87(2)(b) stated that, upon exiting her car, PO Ruger repeatedly told him, “Come here” and instructed him to take his hand out of his pocket. The surveillance video shows that PO Ruger pointed at § 87(2)(b) and made statements to him immediately upon exiting her car and that § 87(2)(b) put his hands up. Therefore, the preponderance of the evidence supports the determination that PO Ruger stopped § 87(2)(b) immediately upon exiting her car.

PO Ruger stated that she exited her car and approached § 87(2)(b) because she knew that § 87(2)(b) was in a gang, because § 87(2)(b) had made an abrupt turn away from her upon making eye contact with her, and because § 87(2)(b) cursed at her as soon as she approached him. During her CCRB interview, PO Ruger did not cite suspicion of any crime as a reason for approaching § 87(2)(b). However, PO Ruger’s Stop, Question and Frisk Report notes that § 87(2)(b) was stopped for suspicion of criminal possession of a weapon. The Stop, Question and Frisk Report lists “suspicious bulge/object: hand in waistband” as an additional reason for stopping § 87(2)(b) and notes under additional circumstances “area has high incidence of reported offense of type under investigation.”

PO Ruger initially described the turn § 87(2)(b) made as “a complete 180,” but later described it as a 90-degree turn. § 87(2)(b) stated that he was returning home from the store at the time of the incident and did not notice the officers until he was already on his stoop. The video of the incident appears to show § 87(2)(b) returning to his home. Due to the position of the surveillance cameras, it cannot be determined at what point he first saw PO Ruger.

PO Ruger initially described § 87(2)(b) cursing while she was approaching him but later stated

that § 87(2)(b) yelled at her, asking her why she was “fucking” stopping him, prior to her even approaching him. Sgt. Siani described § 87(2)(b) cursing at him and PO Ruger only after they had stopped him. § 87(2)(b) did not describe himself making any statements to PO Ruger prior to her approaching him but admitted arguing with the officers about why they had stopped him after he had been frisked. Therefore, the preponderance of the evidence does not support PO Ruger’s claim that § 87(2)(b) cursed at her prior to her approaching him.

During her CCRB interview, PO Ruger stated that the note “suspicious bulge/object: hand in waistband” on her Stop, Question and Frisk report referred to § 87(2)(b) standing with his back to her with his right elbow out. PO Ruger stated that she could not actually see § 87(2)(b)’s right hand and did not actually see any suspicious bulge or object on his person. PO Ruger initially stated that she observed § 87(2)(b) in this position after she had exited her car and while she was telling § 87(2)(b) to turn around. PO Ruger later stated that she observed § 87(2)(b) in this position as soon as he made his abrupt turn away from her, which would have placed PO Ruger in her car when she made the observation.

The video of the incident shows that § 87(2)(b) was facing PO Ruger from the moment she arrived at the location and that he did not turn his back to her until she physically turned him around while frisking him. The video evidence therefore directly refutes PO Ruger’s claim that she stopped § 87(2)(b) because he was standing with his back toward her with his hand by his waistband.

PO Ruger was shown the video recording of the incident and asked if she recognized any moment in the video as the moment during the incident when she had allegedly seen § 87(2)(b) with his hand at his waistband. PO Ruger’s union representative suggested that the moment could be seen at 3:08:32 p.m. in the video, and PO Ruger agreed. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Ruger then stated, referring to 3:08:39 p.m. in the video, “And then right, you know, at that moment, his right hand.” At 3:08:39 p.m. in the video, § 87(2)(b) is on the stoop of § 87(2)(b) facing out toward the street, and PO Ruger is still in her car, which is coming to a stop two car-lengths away from § 87(2)(b) to his right. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Ruger stated that she frisked § 87(2)(b) because she suspected that he may have had a weapon and that she suspected that he may have had a weapon for the same reasons that she stopped him and for the additional reason that § 87(2)(b) allegedly failed to comply with instructions to turn around to face her. PO Ruger did not cite failure to comply with instructions as a reason for frisking § 87(2)(b) in the Stop, Question and Frisk Report. PO Ruger stated that she only frisked § 87(2)(b)’s waistband, but the video of the incident shows that she also frisked his groin and ankles. PO Ruger did not explain why she frisked § 87(2)(b)’s groin and ankles.

The video of the incident shows that § 87(2)(b) never had his back to PO Ruger until she turned him around while frisking him. The video evidence therefore directly refutes PO Ruger's claim that she frisked § 87(2)(b) because he refused to comply with instructions.

The Stop, Question, and Frisk Report notes "inappropriate attire" as a reason why PO Ruger frisked § 87(2)(b). During her CCRB interview, PO Ruger did not recall what was inappropriate about § 87(2)(b)'s attire. There does not appear to be anything obviously inappropriate about § 87(2)(b)'s attire in the video as compared with the attire of the PO Ruger and Sgt. Siani: § 87(2)(b) is seen wearing pants and a hoodie and the officers are seen wearing plainclothes with jackets. § 87(2)(g)

§ 87(2)(g)

A police officer may only stop an individual if the officer possesses a reasonable suspicion that the individual has committed, is committing, or is about to commit a specific crime. An officer may frisk an individual in the course of a stop only if the officer has a reasonable suspicion that the individual is armed. People v. De Bour, 40 N.Y.2d 210 (1976) (encl. 1A-N).

Knowledge of an individual's association with a gang does not by itself provide an officer with reasonable suspicion, even in instances where the individual is encountered in close spatial and temporal proximity to a reported crime, in a high crime area, and walks away upon an officer's approach. People v. Posnjak, 72 A.D.2d 966 (4th Dept., 1979) (encl. 1O). Knowledge of an individual's prior criminal history likewise does not provide reasonable suspicion, even in instances where an officer encounters an individual whom he or she has previously arrested, in an area with a high rate of occurrence of the crime for which the officer previously had arrested the individual, and where the individual changes direction upon sight of the officer. People v. Johnson, 64 N.Y.2d 617 (1984) (encl. 1P-T).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

The only reasons not directly refuted by evidence that PO Ruger provided for stopping and frisking § 87(2)(b) were her knowledge that § 87(2)(b) was a gang member with a previous arrest for criminal possession of a weapon and her observation of § 87(2)(b) turning away from her upon seeing her in a high crime area. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: PO Lynn Ruger searched § 87(2)(b)

PO Ruger denied that she searched § 87(2)(b). However, the video surveillance recording of the incident plainly shows that PO Ruger searched § 87(2)(b)'s left hoodie pocket and lifted up and searched underneath the front part of the bottom hem of § 87(2)(b)'s hoodie. The video recording of the incident shows PO Ruger searching these areas without performing a prior frisk. PO Ruger never described feeling any suspicious objects on § 87(2)(b) in the course of frisking him.

An officer may search an individual in the course of a stop if the officer has probable cause to believe that evidence or contraband is concealed in the individual's clothing or if, in the course a lawful frisk, the officer feels an object in the civilian's clothing that feels as though it may be a weapon. People v. De Bour, 40 N.Y.2d 210 (1976) (encl. 1A-N).

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: PO Lynn Ruger refused to provide her name to

§ 87(2)(b)

§ 87(2)(b) stated that he asked PO Ruger for her name and that she told him her name was "Rivera." PO Ruger stated that § 87(2)(b) asked herself and Sgt. Siani simultaneously to identify themselves, although she did not recall whether § 87(2)(b) asked them for their names, shield numbers, or both. PO Ruger stated that she told § 87(2)(b) both her name and shield number and that she repeated her name and shield number over the intercom to § 87(2)(b) while § 87(2)(b) was in a position to hear her make this statement. Sgt. Siani stated that § 87(2)(b) did not ask PO Ruger for her name, that PO Ruger did not state her name to § 87(2)(b) and that PO Ruger did not at any point identify herself to § 87(2)(b) by the name "Rivera" or by any other false name. § 87(2)(b) did not hear any statements made by PO Ruger or Sgt. Siani.

§ 87(2)(g)

Allegation E – Abuse of Authority: Sgt. Christopher Siani refused to provide his name to

§ 87(2)(b)

§ 87(2)(b) stated that he asked Sgt. Siani for his name and that Sgt. Siani replied that it was none of his business. Sgt. Siani denied that § 87(2)(b) asked him for his name and stated that he did not at any point state his name or shield number to § 87(2)(b).

PO Ruger stated that § 87(2)(b) asked herself and Sgt. Siani simultaneously to identify themselves, although she did not recall whether § 87(2)(b) asked their for names, shield numbers, or both. PO Ruger stated that Sgt. Siani responded to § 87(2)(b)'s request by stating his shield number and that she interrupted him before he stated his name. PO Ruger did not recall whether Sgt. Siani told § 87(2)(b) his name at any point in the incident. § 87(2)(b) did not hear any statements made by PO Ruger or Sgt. Siani. The video recording of the incident does not have audio.

PO Ruger's statement corroborates that § 87(2)(b)'s claim that he asked Sgt. Siani for some form of identification and that Sgt. Siani acknowledged having heard his request. Sgt. Siani affirmed stated that he did not state his name to § 87(2)(b) and it was therefore in his interest to deny that § 87(2)(b) ever asked him for his name. Therefore, preponderance of the evidence supports the finding that § 87(2)(b) asked Sgt. Siani for his name, that Sgt. Siani heard this request, and that Sgt. Siani did not provide his name to § 87(2)(b).

NYPD Patrol Guide Section 203-09 requires officers to state or otherwise provide their name, rank or shield number upon request (encl. 1B).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation F – Other Misconduct: PO Lynn Ruger intentionally made false official statements in violation of NYPD Patrol Guide Section 203-08.

Allegation F – Other Misconduct: PO Lynn Ruger intentionally made false official statements in violation of NYPD Patrol Guide Section 203-08.

PO Ruger made two claims about the incident to the CCRB that were directly disproven by video evidence.

First, PO Ruger denied that she searched § 87(2)(b). At 19:52 in the audio recording of PO Ruger's CCRB interview, she was asked the following questions and gave the following answers:

Q: Did you search inside of any of his § 87(2)(b)'s pockets?

PO Ruger: No.

Q: Did you ever place your hand inside of his clothing or any pockets?

PO Ruger: Nnnn—in his—I', I don't remember what he was wearing that day. He could have had like... Definitely not in his pockets, no, and I don't remember what he was wearing. He could have had like a loose shirt that I didn't go in but, like something that you're wearing, if it was open, to get his waistband, I'm kind of like, then I'd be like in your shirt, but no, I didn't touch skin or anything like that.

The video recording of the incident shows that PO Ruger searched both the left pocket of § 87(2)(b)'s hoodie and the area underneath the front bottom hem of his hoodie. The video recording therefore refutes PO Ruger's claim that she did not search § 87(2)(b).

PO Ruger was shown the entire video recording of the incident. PO Ruger's attention was then directed to 3:09:04 p.m. in the video, at which point she is seen searching § 87(2)(b)'s left hoodie pocket. The portion of the video showing the search of § 87(2)(b) was replayed for PO Ruger. At 37:47 in the audio recording of PO Ruger's CCRB interview, she was asked the following questions regarding what is seen in the video, and she gave the following answers:

Q: Are you putting your hand in his § 87(2)(b)'s] pocket?

PO Ruger: No. That's possibly a t-shirt or some else that he had right here. Also you can see that his boxers are pretty high, and those are his jeans. You know, that's his waistband area. That's the area that I'm checking.

Q: Reviewing this video, you do not remember putting your hand inside of any pockets?

PO Ruger: I didn't put my hand in any of his pockets. No.

The second false claim which PO Ruger made to the CCRB was that § 87(2)(b) had his back to her during the incident. PO Ruger repeatedly cited § 87(2)(b) having his back to her as having contributed to her suspicion that he had a weapon and, therefore, to her decision to frisk him.

At 14:12 in the audio recording of PO Ruger's CCRB interview, she was asked the following question and gave the following answer:

Q: What did you suspect him[§ 87(2)(b) of?

PO Ruger: I thought that he had a weapon on him. He wouldn't show me his front.

At 17:28 in the audio recording of PO Ruger's CCRB interview, she was asked the following question and gave the following answer:

Q: Did you instruct him § 87(2)(b) to turn around?

PO Ruger: Yeah.

Q: Okay. Did he comply with that?

PO Ruger: No.

Q: How many times did you tell him to do that?

PO Ruger: I don't know. I don't know an exact number.

Q: More than once?

PO Ruger: Yes.

At 24:34 in the audio recording of PO Ruger's CCRB interview, she was asked the following question and gave the following answer:

Q: Did you actually see him § 87(2)(b) holding onto something with his hands?

PO Ruger: Um, I saw, when, like I said, his back was towards me, so he could have had a, a shotgun there.

The video recording of the incident shows that § 87(2)(b) did not have his back towards PO Ruger from the time she arrived at the location in her car until she physically turned him around while frisking him. The video therefore refutes PO § 87(2)(b)'s claim that § 87(2)(b) had his back toward her and that that him having his back toward her contributed to her suspicion that he had a weapon.

PO Ruger was shown the video recording of the incident. At 33:32 in the audio recording of her CCRB interview, the following question regarding her previous statements that § 87(2)(b) had his back toward her during the incident, and she provided the following answer:

Q: Does watching this recording change your recollection?

PO Ruger: I remember his § 87(2)(b) s] back being towards me, and I remember... [PO Ruger paused for four seconds.] Like, I remember knowing that I had, I had suspicion that he had a weapon.

The investigation has determined that the frisk and search of § 87(2)(b) by PO Ruger was unlawful (see the analysis of Allegations B and C in the Investigative Findings and Recommendations section of this report).

NYPD Patrol Guide Section 203-08 prohibits officers from intentionally making false official statements (encl. 1A-B). The act of intentionally making false official statements is not only an act of misconduct in itself, but it also increases the gravity of those acts of misconduct which the false statements serve to conceal. NYPD v. Ortiz, OATH Index No. 1626/97 (encl. 1V-AF).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g) [Redacted]
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